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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

BRICE TRUMAN DABIS,

Defendant and Appellant.

C064017

(Super. Ct. Nos.
05F10967, 06F09433,
08F05402)

A jury found defendant Brice Truman Dabis guilty of numerous felonies arising from a home invasion, including robbery and receiving stolen property. He was sentenced to state prison for 21 years 4 months. On appeal, defendant contends he was improperly convicted of both robbery and receiving stolen property, and the People concede the issue. We will reverse the conviction for receiving stolen property and in all other respects affirm the judgment. Under the circumstances, we need not reach defendant's second contention

that the trial court erred in failing to instruct the jury that it could not find defendant guilty of both robbery and receiving stolen property.

FACTUAL AND PROCEDURAL BACKGROUND

Because the People concede defendant's contention on appeal, our summary of the facts and procedural background will be brief. Defendant and a codefendant committed a home invasion robbery during which they bound and blindfolded the victim at gunpoint. Items taken from the victim's home during the robbery were later recovered in a shed behind the house of the victim's neighbor (who was a friend of defendant), as well as on defendant's person and in the truck used by defendant and his cohort during the offense.

In case No. 06F09433, a jury found defendant guilty of numerous felonies arising from the home invasion, including robbery (Pen. Code, § 211 (count one); undesignated statutory references are to this code) and receiving stolen property (§ 496, subd. (a) (count six)). Defendant waived jury trial on an enhancement, which the trial court found true, and pleaded no contest to charges in two other cases. The trial court sentenced defendant to state prison for a term of 21 years 4 months, including an upper term of 6 years for robbery, and pursuant to section 654, stayed the term for receiving stolen property in the same case.

DISCUSSION

Defendant contends, correctly, that he was improperly convicted of both robbery and receiving stolen property.

"Robbery is the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear." (§ 211.) In addition, "[e]very person who buys or receives any property that has been stolen . . . , knowing the property to be so stolen . . . , shall be punished by imprisonment" (§ 496, subd. (a).) However, "no person may be convicted [of receiving stolen property] and of the theft of the same property." (§ 496, subd. (a).)

The California Supreme Court has recognized that, when a defendant is convicted of stealing and receiving the same property, reversal of the receiving stolen property conviction is appropriate. (*People v. Ceja* (2010) 49 Cal.4th 1, 10.)

DISPOSITION

The receiving stolen property conviction in case No. 06F09433 is reversed. In all other respects, the judgment is affirmed.

MAURO, J.

We concur:

RAYE, P. J.

NICHOLSON, J.